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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

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TONI SINGLETON, et al., : CASE NO. 1:09-CV-2937

Plaintiffs,

vs. : ORDER & OPINION

[Resolving Doc. Nos. <u>35</u> & <u>36</u>]

COMMERCE ENERGY, INC, et al.,

:

Defendants.

:

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## JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

In this employment discrimination case, the Plaintiffs move to dismiss select claims with and without prejudice. [Doc. <u>35</u>.] The Defendants move to dismiss all of the requested claims with prejudice. [Doc. <u>36</u>.] Plaintiffs Janell Calloway, Patricia Meyer, and Machelle Dufton-Jones have expressly requested the Court to dismiss their claims with prejudice. Under <u>Federal Rule of Civil Procedure 41(a)(2)</u>, the Court **GRANTS** the Plaintiffs' motion and **DISMISSES** Calloway's, Meyer's, and Dufton-Jones's claims **WITH PREJUDICE**.

The Plaintiffs further move the Court to dismiss Ondrea Lemons's and Diane Stone's claims without prejudice. The Plaintiffs say that Lemons has failed to respond to correspondence and telephone calls from counsel, has not participated in discovery, and did not attend the scheduled case management conference. Similarly, Stone failed to appear at the conference, has not responded to discovery requests, and has not returned phone calls from counsel.

Under Federal Rule of Civil Procedure 41(b), the Court may dismiss a plaintiff's claim if that plaintiff "fails to prosecute or to comply with these rules or a court order . . . ." Given Lemons's and Stone's non-compliance with this Court's order requiring attendance at the case management

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conference as well as their failure to participate in the litigation, the Court **GRANTS** the Defendants' motion for involuntary dismissal and **DISMISSES** Lemons's and Stone's claims **WITH PREJUDICE**.

IT IS SO ORDERED.

Dated: April 29, 2010 <u>s/ James S. Gwin</u>

JAMES S. GWIN UNITED STATES DISTRICT JUDGE